

Treasury Department and SBA Provide Preliminary Guidance and Sample Application for Paycheck Protection Program Loans

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On March 31, 2020, the Treasury Department and Small Business Administration (“**SBA**”) released initial guidance and a sample application form for the Paycheck Protection Program (“**PPP**”), the small business loan program established pursuant to the Coronavirus Aid, Relief, and Economic Security (“**CARES**”) Act signed by President Trump on March 27, 2020.

While no regulations have been published, the initial guidance provides further detail about how the SBA intends to administer PPP loans, including the following significant information:

1. **General Terms.** The key terms of each loan under the PPP will be the same for each borrower (regardless of lender).
2. **Interest.** Interest on PPP loans will be set at a fixed rate of 0.50%.
3. **Maturity.** The loans have a maturity of two years, with no prepayment penalties or fees.
4. **Deferral.** Participating lenders are required to defer payments for six months (though interest will continue to accrue during such time).
5. **Restrictions on Use of Loan Proceeds Eligible for Loan Forgiveness.** Due to likely high subscription rates, it is anticipated that 25% or less of the amount eligible for loan forgiveness will be permitted to be used for payments of mortgage interest, rent and utilities (*i.e.*, non-payroll costs).
6. **Program Start Dates.**
 - a. Small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders as early as April 3, 2020.
 - b. Independent contractors and self-employed individuals may apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders beginning on April 10, 2020.
 - c. Other regulated lenders will be permitted to make PPP loans as soon as they are approved and enrolled in the program¹.

¹ While these dates have been provided by the Treasury and SBA as launch dates for the PPP programs, they may be aspirational in nature. Many lenders have expressed the need for additional time to understand the program requirements, process loan applicants and disburse loan proceeds. As a result, the timeline of each borrower’s loan application and disbursement of loan proceeds will likely vary depending on the participating lender.



While this initial guidance provides additional clarity as to how the PPP loans would be underwritten and issued, there are still a number of unanswered questions about the program. For example, it is still unclear whether existing SBA affiliation rules will be modified, which impacts whether small businesses owned or controlled by private equity funds are eligible to participate.

We expect the SBA to issue regulations and further guidance within the coming days and weeks. Such guidance and regulations will provide further detail and may materially change the parameters of the loan program. Given the fast pace of developments, businesses are encouraged to seek advice from qualified legal counsel before applying for a PPP loan.

For more information, please see the following resources:

1. Resources from the SBA and Treasury Department:
 - a. [Top-Line Overview of the Program](#)
 - b. [Information Sheet for Lenders](#)
 - c. [Information Sheet for Borrowers](#)
 - d. [Sample Application Form](#)

2. Prior Haynes and Boone Guidance on the Paycheck Protection Program
 - a. [Bridging the Gap - An Overview of SBA Loans under the Paycheck Protection Program](#) (updated as of April 1, 2020)
 - b. [Relief for Employers and Workers under the CARES Act](#)

Additional Questions? Contact a member of the Haynes and Boone [Finance](#) or [Corporate Practice](#) Groups at Haynes and Boone, including the following individuals:

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